

No. 23-1078

In the United States Court of Appeals
for the Fourth Circuit

B.P.J., by her next friend and mother, Heather Jackson,

Plaintiffs-Appellants,

v.

WEST VIRGINIA STATE BOARD OF EDUCATION, HARRISON COUNTY BOARD OF EDUCATION, WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION, W. CLAYTON BURCH, in his official capacity as State Superintendent, DORA STUTLER, in her official capacity as Harrison County Superintendent,

Defendants-Appellees,

- and -

THE STATE OF WEST VIRGINIA, LAINEY ARMISTEAD,

Intervenors-Appellees

On Appeal from The United States District Court
for the Southern District of West Virginia

**MOTION OF TRANSGENDER WOMEN ATHLETES AS *AMICI CURIAE*
FOR LEAVE TO FILE AMICUS BRIEF IN SUPPORT OF
PLAINTIFFS-APPELLANTS AND REVERSAL**

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COME NOW *Amici Curiae* transgender women athletes and hereby move the Court for leave to file the attached brief in the above-styled case in support of Plaintiffs-Appellants B.P.J. and Heather Jackson and in support reversal.

This motion is unopposed. Every party except for West Virginia Secondary School Activities Commission (“WVSSAC”) has consented to its filing. Counsel for WVSSAC has represented that WVSSAC “take[s] no position” as to this motion and the filing of the *amicus* brief, and does not intend to file an opposition. Although *amici* do not wish to waste the Court’s and parties’ resources litigating an unopposed motion for leave to file their brief, Federal Rule of Appellate Procedure 29(a)(2) suggests a motion is necessary in this instance. Therefore, *amici* include here a brief description of our interests, why the brief is desirable, and why the matters asserted in the brief are relevant, pursuant to Federal Rule of Appellate Procedure 29(a)(3). *Amici* would be happy to provide more detailed information or discussion if the Court so requires.

Amici are eight transgender women athletes who are involved in various sports and teams across the country. Each athlete has benefitted immensely from their ability to participate in sports and on teams

consistent with their gender identity. Conversely, each athlete has been significantly harmed when denied access to sports because of their gender identity.

The proposed brief shows through the personal stories of the athletes that West Virginia House Bill 3293 is based on unfounded stereotypes about transgender athletes, and that denying transgender women and girls the ability to participate in sports aligned with their gender identity is harmful and discriminatory.

Amici respectfully request their motion for leave to file an *amicus* brief be granted.

Dated: April 3, 2023

/s/ Joseph M. Callaghan

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CERTIFICATE OF SERVICE

In accordance with Fed. R. App. P. 25(d) and Local Rule 25, undersigned counsel certifies that the foregoing document was this day served via notice of electronic filing with the Fourth Circuit CM/ECF system on all counsel of record in the case.

Dated: April 3, 2023

/s/ Joseph M. Callaghan